

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

August 6, 2015



Planning Variance case no. PV 15-07: Billy B. Hutson

CASE DESCRIPTION: request for approval of variances from minimum 7.5-foot side and rear building setbacks generally required from property lines on residential home sites, to legitimize previous construction of an accessory structure that extends within 2.2 feet from the southeast side property line and within 4 inches from the rear (southwest) property line

LOCATION: 3240 Walnut Creek Court, *approximately 1,200 feet southwest of the intersection of South Traditions Drive and Walnut Creek Court*

LEGAL DESCRIPTION: Lot 21, Block 1, The Traditions Subdivision - Phase 3

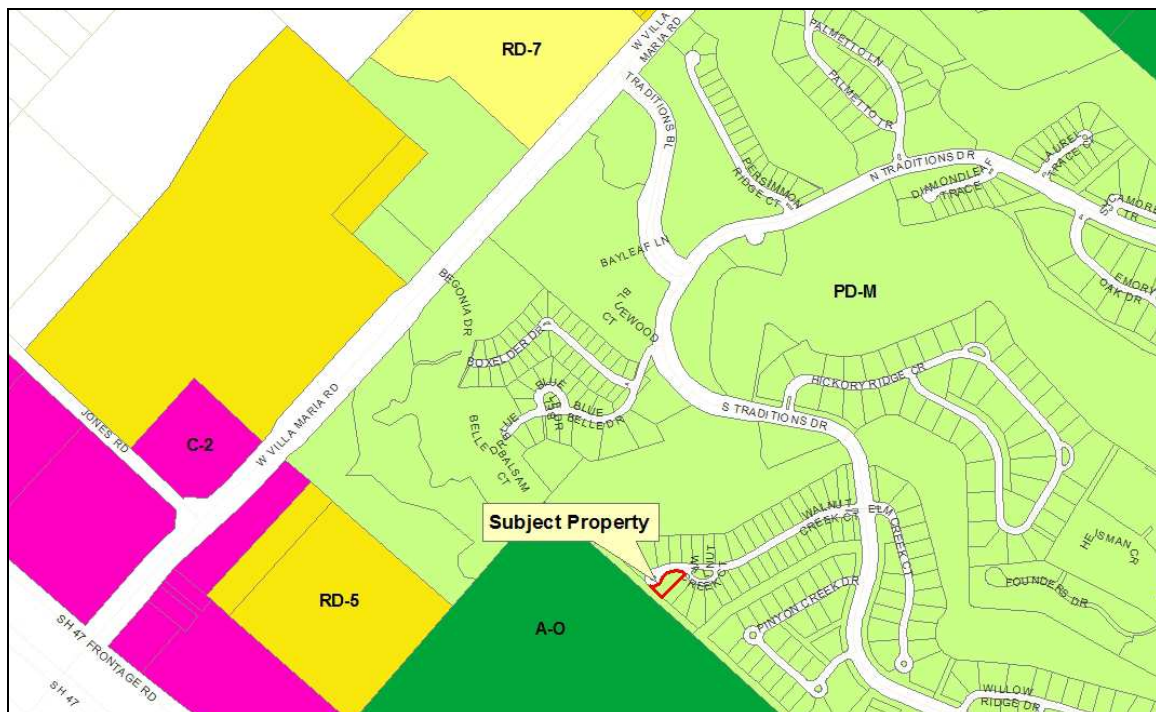
ZONING: Planned Development District – Mixed Use (PD-M)

EXISTING LAND USE: single- family residence

PROPERTY OWNER: Billy B. Hutson

STAFF CONTACT: Randy Haynes - Senior Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** the requested variance.



AERIAL PHOTOGRAPH:



BACKGROUND:

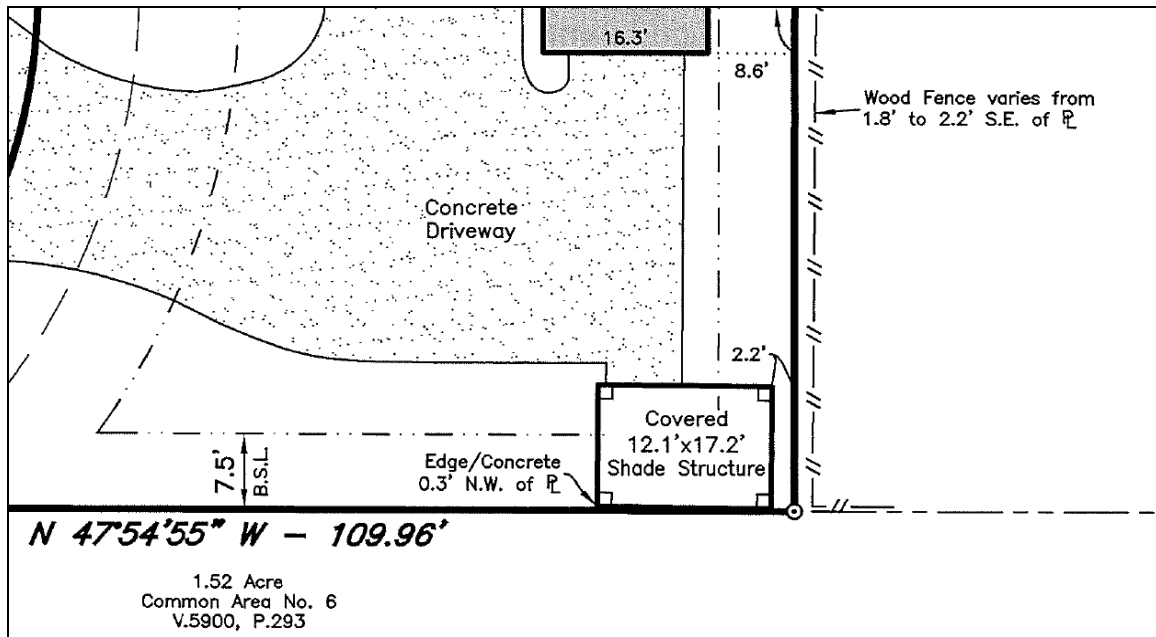
The subject property lies within a residential subdivision and is surrounded on three sides by land zoned for residential use. The abutting property to the southwest is undeveloped and zoned Agricultural-Open District (A-O). Over ten years ago, the applicant/property owner, Mr. Hutson, built a 204 square-foot open-air living structure abutting southernmost corner of the property. The structure is essentially a gable-end roof supported on each corner by masonry columns. The manner of construction appears of reasonable quality and is in design and form, similar to the adjoining residence. All four sides are open and there are no walls. A building permit was neither requested nor a site plan submitted to the City of Bryan for approval prior to construction. The building is located within 2.2 feet of the east side corner and 4 inches from the rear (southwestern) side property line. The minimum required building setback from these side property lines is 7.5 feet.

A recent survey related to the pending sale of the property revealed the existence of the encroachment into minimum required building setback areas. Mr. Hutson is requesting a 7.2-foot and a 5.3-foot variance from the 7.5-foot building setback standard to allow the existing structure to remain in place.

3240 WALNUT CREEK COURT:



DETAIL FROM 2015 SURVEY DRAWING:



EXCERPT, APPLICATION FOR PLANNING VARIANCE:

Please describe the type of variance being requested:

To Allow a Reduction of the 7.5 Rear & Side Setbacks
Setback variance for detached garage/patio
Structure.

Are there special circumstances or conditions affecting the land involved such that the strict application of the ordinance would deprive you reasonable use of the land:

property is under contract & ready to
close. Encroachment showed up on survey.
Traditions approved structure before it was built.
~~According to~~ structure has been there for 11+ years.
Is the variance necessary for the preservation and enjoyment of substantial property rights:

State how the granting of the variance would not be detrimental to the public health, safety, or welfare or injurious to other property in the area:

n/a. Property behind Structure
is greenbelt & not property owned by
individual.

ANALYSIS:

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

Staff contends that, in this particular case, granting the requested variances will not be detrimental to the public health, safety or welfare, or materially injurious to properties or

improvements in the area. In this particular case, the southwest (rear) property line adjoins a 50-foot wide common area owned by the Traditions Home Owner's Association. The existence of the common area makes it unlikely that construction will take place adjoining this property boundary.

In the case of the southeast property line, the structure, being 12 feet wide, abuts an area in the neighboring property that is encumbered by the same 7.5-foot rear setback line as the subject property. Assuming that the adjacent setback area is not also violated, this would leave only five feet of the open sided structure that could conceivably lie too close to another structure built on the adjacent property.

Staff believes that approving the requested variance, in this particular case, will not be detrimental to properties or improvements in the area.

2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

The area nearest the structure across the southeast property boundary is encumbered by the standard 7.5-foot minimum building setback. It is the opinion of the staff that the five foot potential overlap could produce a 9.5-foot building separation is relatively insignificant. The southwest property line adjoins a 50-foot wide common area owned by the Traditions Home Owner's Association. The existence of the common area makes it unlikely that construction will take place adjoining this property boundary. Considered together, staff contends that neither encroachment will be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property.

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

Given the circumstances identified above, staff believes that the hardships and difficulties upon the owner to comply with the ordinance at this time would be greater than the benefits derived by the public by literal enforcement of setback requirements.

RECOMMENDATION:

As noted above, the structure encroaching into the minimum setback area is open and unenclosed on all four sides. Staff **recommends approval** of the requested variance, **subject to the condition that the structure remains open and unenclosed on all four sides.**